

Memorandum

Date : June 9, 2000

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To : Robert A. Laurie, Presiding Member
Michal Moore, Associate Member
Energy Facility Siting Committee

: California Energy Commission - **Kae C. Lewis**
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Subject : **PASTORIA ENERGY FACILITY STATUS REPORT #3 – June 9, 2000**

Since the last status report on May 15, the Energy Commission staff has been working with Pastoria Energy Facility (PEF) to clarify information in a number of technical areas; biological, cultural, water, and visual resources. All data responses from the applicant for the first set of data requests in cultural and visual resources are complete.

Additional data requests in cultural and water resources were submitted to the applicant on May 31. Responses to the water data requests, along with a "Water Plan", have been received by staff and are being reviewed. Responses to the second set of cultural data requests are expected by June 15, 2000.

Significant Issues: On April 10, 2000, the Project Committee issued a scheduling order for the PEF project which directs the Preliminary Staff Assessment (PSA) be filed by July 10, 2000. Significant progress towards the PSA has been made on the three *significant* issues for the certification of the PEF project since the last status report. The following is a discussion of the progress currently being made.

Water Resources: Through the data response material and the "Water Plan" submittal, the staff has received additional information on PEF's backup water supply arrangements. These arrangements are significant because the project cannot expect 100 percent availability of water supplies from their primary supplier, Wheeler Ridge-Maricopa Water Storage District (WRMWSD), each and every year. The concerns about PEF's backup water supply include the nature of the rights and the conditions and restrictions under which the supplier, Azurix, must operate; the conveyance arrangements for this water supply; and, the environmental impacts of these supply withdrawals. For further clarification, the staff is holding a Water Supply Plan Workshop on June 13 at the Kern County Water Agency (KCWA) in Bakersfield. The applicant, Azurix, Energy Commission staff, and agencies (WRMWSD and KCWA) involved with both the primary and the backup water supplies for the PEF project, will be in attendance. It is hoped that this workshop will result in a complete understanding of and agreement with PEF's water supply arrangements among all of the attendees.

Air Quality: PEF submitted all of the necessary option agreements for the project's emission reduction credits (ERCs) to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) on May 11. SJVUAPCD was thus able to issue the

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Preliminary Determination of Compliance (PDOC) on May 15 (10 days earlier than initially scheduled).

Biological Resources: Since the last status report amplification has taken place for PEF's mitigation plans to comply with the federal Endangered Species Act (ESA). The U.S. Fish and Wildlife Service (USFWS) has indicated in the last several months that PEF must provide a Habitat Conservation Plan (HCP) as directed by Section 10 (ESA). This plan must provide (a) permanent conservation set-aside for the power plant site to mitigate for temporary and permanent disruption to endangered species (kit fox) habitat, and (b) an additional conservation easement near the power plant to mitigate for the potential taking of habitat within the kit fox movement corridor.

At present PEF is working with Tejon Ranch to secure a conservation easement around the power plant to comply with (b) above. The USFWS is currently determining the length of time that this easement must be in effect. To comply with (a) above, PEF is making arrangements for the permanent conservation set-aside which will most likely be at Lokern Preserve.

A further issue is that the USFWS must decide if it will require an Environmental Assessment (EA) or an Environmental Impact Statement (EIS), a lengthier process, to complete its authorization for this project (the other requirements are the HCP and the Biological Opinion). All of these requirements, which are necessary for the project's federal incidental take permit, will take many months to complete. While USFWS authorization documentation for the PEF project will not affect the PSA, it could affect the overall schedule for the project certification process. The Energy Commission will need to decide whether its certification must wait for the completion of the USFWS authorization process (or some part of that process).

The primary activity in endangered species for this project has at the federal level. The California Department of Fish and Game is monitoring the project, however, it does not expect a state incidental take permit to be needed because state listed endangered species are not impacted.

Schedule: Resolution is taking place with all of the significant issues outstanding for the PEF project. If progress continues with activities in the biological and water resources areas, the PSA will stay on schedule and be filed by July 10. The decision mentioned above, whether or not Energy Commission certification for this project must wait for the USFWS authorization process to be completed, will not delay the PSA.

cc: Pastoria Energy Facility Proof of Service List